

BILL LOCKYER, Attorney General
of the State of California
E. A. JONES III, State Bar No. 71375
Deputy Attorney General
ELAINE GYURKO
Senior Legal Analyst
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 897-4944
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke Probation
Against:

TEKA T. KIDANU
10511 Lindley Avenue, Apt. #121
Northridge, California 91326

Respiratory Care Practitioner License No. 15066
Respondent.

Case No. R-2035

**DEFAULT DECISION
AND ORDER**

[Government Code § 11520]

FINDINGS OF FACT

1. On or about June 28, 2006, Complainant Stephanie Nunez, in her official capacity as Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs, State of California, filed Petition to Revoke Probation No. R-2035 against Teka T. Kidanu (Respondent) before the Respiratory Care Board (Board).

2. On or about March 25, 1992, the Board issued Respiratory Care Practitioner License Number 15066 to Respondent. This license will expire on November 30, 2007, unless renewed.

3. On or about June 28, 2006, Jennifer Porcalla, an employee of the Complainant Agency, served by Certified and First Class Mail a copy of the Petition to Revoke Probation No. R-2035, Statement to Respondent, Notice of Defense, Request for Discovery, and

1 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
2 with the Board at 10511 Lindley Avenue, Apartment #121, Northridge, California 91326. A
3 copy of the Petition to Revoke Probation, the associated supplemental documents and
4 Declaration of Service are attached hereto as Exhibit A, and incorporated as if fully set forth
5 herein.

6 4. On or about July 1, 2006, the Domestic Return Receipt was signed
7 acknowledging receipt of the Petition to Revoke Probation and related documents. A copy of the
8 Domestic Return Receipt is attached as Exhibit B, and incorporated herein by reference.

9 5. Service of the Petition to Revoke Probation was effective as a matter of
10 law pursuant to the provisions of Government Code section 11505, subdivision (c).

11 6. Government Code section 11506 states, in pertinent part:

12 "(a) Within 15 days after service of the accusation, the respondent may file with
13 the agency a notice of defense.

14 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts of
16 the accusation not expressly admitted. Failure to file a notice of defense shall constitute a
17 waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless
18 grant a hearing."

19 7. Respondent failed to file a Notice of Defense within 15 days after service
20 upon him of the Petition to Revoke Probation, and therefore waived his right to a hearing on the
21 merits of Petition to Revoke Probation No. R-2035.

22 8. California Government Code section 11520 states, in pertinent part:

23 "(a) If the respondent either fails to file a notice of defense or to appear at the
24 hearing, the agency may take action based upon the respondent's express admissions or
25 upon other evidence and affidavits may be used as evidence without any notice to
26 respondent."

27 9. Pursuant to its authority under Government Code section 11520, the Board
28 finds Respondent is in default. The Board will take action without further hearing, and based on

Respondent's express admissions by way of default and the evidence before it contained in Exhibits A and B, finds that the allegations, and each of them, in Petition to Revoke Probation No. R-2035 are true.

10. The Respiratory Care Board further finds that pursuant to Business and Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed for in the Petition to Revoke Probation total \$3,411.50 based on the Certification of Costs contained in Exhibit C.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Teka T. Kidanu has subjected his Respiratory Care Practitioner License No. 15066 to discipline.

2. Service of the Petition to Revoke Probation and the related documents was proper and in accordance with the law.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board is authorized to revoke Respondent's Respiratory Care Practitioner License based on his violations of probation. Respondent failed to comply with the probation monitoring program and the biological fluid testing program, failed to abstain from the use of mood altering substances by testing positive for Ethyl Glucuronide, failed to obey all laws, and failed to pay his cost recovery and probation monitoring payments.

5. Respondent is hereby ordered to pay the above costs of investigation and enforcement of this action.

ORDER

1. Respiratory Care Practitioner License No. 15066, heretofore issued to Respondent Teka T. Kidanu, is hereby revoked.

2. If Respondent ever files an application for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed.

3. Respondent is ordered to reimburse the Respiratory Care Board the

amount of \$3,411.50 for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board for its costs. Respondent's Respiratory Care Practitioner License may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 3753.5 have been paid.

4. Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on December 14, 2006.

It is so ORDERED November 14, 2006.

Original signed by:

LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS